

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
AT NASHVILLE**

**DEBORAH S. TEEPLES as Personal
Representative of Charlotte S. Boze,
Deceased,**

Plaintiff,

vs.

BIC USA INC.,

Defendant.

**CASE NO. 3:20 –cv- 00941
Judge Campbell
Magistrate Judge Frensley
Jury Demand**

**DEFENDANT BIC USA INC.’S REFILED AND SUPPLEMENTAL MOTION FOR
SANCTIONS REGARDING SPOILIATION AND FAILURE TO PRESERVE EVIDENCE**

Pursuant to this Court’s Memorandum Opinion and Order of September 29, 2023 (Document No. “D.N.” 82), Defendant BIC USA Inc. (“BIC”) submits this Refiled and Supplemental Motion for Sanctions Regarding Spoliation and Failure to Preserve Evidence in order to address issues raised by this Court’s opinion, and as otherwise directed.

This Refiled and Supplemental Motion is offered in further support of BIC’s original Motion to Dismiss and or Exclude Evidence (D.N. 65 and 66 and supporting documents and exhibits referenced therein), all of which are incorporated herein by reference. BIC submits that pursuant to Federal Rules of Civil Procedure, controlling caselaw and this Court’s inherent authority, the sanctions of (1) dismissal; and (2) excluding any expert and lay witness testimony asserting that the Boze fire incident was caused by a non-extinguishing BIC lighter, or that a BIC lighter was the alleged source of ignition; are appropriate and fully warranted based on all testimony and evidence previously in the record, in combination with the supplemental evidence and information filed herewith and outlined below.

Specifically, BIC relies upon all of the following in support of the relief requested:

1. BIC's Motion to Dismiss and/or Exclude Evidence and Supporting Memorandum (D.N. 65 and 66) and all supporting documents and exhibits referenced therein;
2. BIC's Reply in Support of Motion to Dismiss and/or Exclude Evidence (D.N. 80);
3. The facts, opinions and authorities set forth in the affidavits, Rule 26 Reports and supporting documents of BIC expert witnesses Compliance Quality Director Jeffrey Kupson, Daniel Gottuk, P.E., Ph.D., and Richard Roby, P.E., Ph.D., filed as Collective Exhibits 1, 2 and 3 to BIC's Motion for Summary Judgment and in support of BIC's Motion to Dismiss and/or Exclude Evidence (D.N. 60-1 – 60-3);
4. The remaining Exhibits 4-9 to BIC's Motion for Summary Judgment and in support of BIC's Motion to Dismiss and/or Exclude Evidence, including but not limited to the deposition testimony of plaintiff Deborah Teeples, witness Billy Wayne Boze, and the deposition testimony and Initial and Supplemental Rule 26 Reports of plaintiff's consulting expert witness Peter Layson (D.N. 60-4 – 60-9);
5. The Supplemental Affidavit of Richard Roby, P.E., Ph.D filed herewith as Exhibit 10;
6. The Supplemental Declaration of Stephen D'Amico, M.D., filed herewith as Exhibit 11;
7. Affidavit of Joseph R. Wheeler and attached documents, filed herewith as Collective Exhibit 12;
8. Certified Copy of Sumner County Deed documenting sale of Charlotte Boze home on May 6, 2021, filed herewith as Exhibit 13;
9. All other documents and pleadings currently before the Court; and
10. In accordance with the Local Rules of Court, BIC further submits and relies upon a supporting Memorandum brief, filed herewith.

/s/ Joseph R. Wheeler

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CERTIFICATE OF SERVICE

I hereby certify that on the 20th day of October, 2023, the foregoing Refiled and Supplemental Motion for Sanctions Regarding Spoliation and Failure to Preserve Evidence was filed electronically with the Clerk of the Court through the CM/ECF system, which will serve the foregoing document and the notice of electronic filing by electronic mail to all CM/ECF participants, including:

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/s/ Joseph R. Wheeler

Joseph R. Wheeler